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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 2.11.2006.

Jagdish Singh and others .... Appellants.

vs

Jaimal Singh .....Respondent.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Arun Abrol,Advocate,for the appellants.
Mr.D.S.Goraya,Advocate, for the respondent.

Kiran Anand Lall, J.

This is a regular second appeal filed by the plaintiffs, who have lost their suit for permanent injunction, in the trial court and also the first appellate court.

In the suit, the appellant had sought restraint of the respondent, from encroaching upon and raising construction over the disputed 15 feet site, described as a General-street.

The respondent having contested the suit, by controverting the allegations of appellants, the trial court framed issues on 28.10.1998 and fixed the case for appellants' evidence. On the date fixed viz. 22.12.1998, neither any evidence was produced nor had any been summoned. Even thereafter, as many as nine opportunities were granted for their evidence, but they did not produce any witness nor summoned any. The appellants themselves also, did not appear in the witness-box. The trial court, ultimately, closed their evidence under Order XVII Rule 3 CPC and dismissed the suit. They challenged the trial court verdict in appeal. But, the appellate court also affirmed the same, as no explanation, whatsoever, was brought on record for non-production / non-summoning of evidence,

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inspite of the fact that ten adjournments had been granted to them, for the purpose.

This court, too, finds itself in complete agreement with the view taken by the courts below.

In view of the above, the appeal deserves to be dismissed, and it is so ordered.

2.11.2006. (Kiran Anand Lall)
vs. Judge.